

# ORDINANCES REVIEWED FOR IMPACT ON VULNERABLE COMMUNITIES

ORDINANCE REVIEWED	PURPOSE/DISCUSSION	ORDINANCE REVIEW COMMITTEE REVIEW PROCESS	ACTION/RECOMMENDATION
Housing Stability Notification Ordinance	Requires landlords of rental units or people foreclosing on a house to give tenants a list of financial and legal resources when serving a Notice to Quit, such as Residential Assistance for Families in Transition (RAFT) and Emergency Rental and Mortgage Assistance (ERMA).	Presentation by Community Development Planner Keith Benoit 11/17/2020 - under development by Northampton Housing Partnership. Similar ordinances have been enacted in Cambridge and Somerville.	<b><i>Voted unanimously to adopt a tenant notification ordinance similar to Somerville and Boston to educate tenants during the eviction process - 3/1/2021</i></b>
Two-Family By Right in all residential districts (introduced to City Council 12/17/2020 as package of ordinances relative to Two-Family By Right)	Allow two-families by right in all residential zoning districts, including two detached single-family structures.	Presented by Office of Planning and Sustainability (OPS) Director Wayne Feiden 11/2/2020 as part of Current Zoning Initiatives Intended to Address Barriers to Fair Housing. (Decision made 1/11/2021 to include in Bucket #3)	<b><i>Reached consensus to recommend council explore ways to incentivize affordable housing through ordinances and work together with the mayor and planning department to find ways to incentivize housing for marginalized communities - 3/1/2021</i></b>
Liberalizing residential in Florence Center and downtown (in drafting stage at time of presentation)	Allow residential uses on the first floor of commercial buildings outside core downtown areas to allow more people to live within walking distance, allow property owners more options and create housing opportunities at all levels of the market.	Presented by OPS Director Feiden 11/2/2020 (in conceptual phase at time of presentation).	<b><i>Voted unanimously to include this with other zoning ordinances dealing with housing - 3/1/2021</i></b>
<b><u>20.181 An Ordinance Relative to Affordable Housing (350-6-12))</u></b> Introduced to City Council 2/4/2021 - local ordinance intended to simplify process for subsidized affordable housing developers	Allow the affordable housing that is allowed under the state's comprehensive permit law, with the same process but less paperwork than the state process	Presented by OPS Director Feiden 11/2/2020 (in conceptual phase at time of presentation).	<b><i>Voted to to include this with other residential housing recommendations - 3/1/2021</i></b>

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<b><u>21.189 An Ordinance to Create Incentive for Smaller Houses by Allowing Two Half-Scale Units to Count as a Single-Family for Density Purposes</u></b>	Introduced to City Council 2/4/2021 and referred to Community Resources Committee (CRC) and Legislative Matters (LM). Positively recommended by CRC and LM and in City Council for 1st reading 3/18/2021		<b><i>No action taken - due to oversight, it was not on spreadsheet at 3/1/2021 meeting</i></b>
Requiring Rental Agency Fees to be Paid by Landlords instead of Tenants		Idea proposed in context of discussion about removing barriers to fair housing. An informal legal opinion from Megan Bayer of the City of Cambridge Law Department suggested requiring a landlord to pay a fee might unduly interfere in a private civil relationship (See email to Alan Seewald, Esq. dated 1/6/2021) See also Attorney Seewald's comment on 1/11/2021 that the city council does not have the authority to regulate contractual relationships.	<b><i>No Action Taken. Attorney Seewald said he will note in the report this was brought to the committee and that members accepted his opinion that it was not within the authority of the council to enact - 3/1/2021</i></b>
Fair Chance Ordinance. Request to create and pass a fair chance ordinance that limits the use of criminal records by private landlords.	Members reviewed National Housing Law Project - Fair Chance Ordinances Toolkit at 11/17/2020 meeting. Among other things, the toolkit included a caveat that fair chance ordinances usually comes from the work of grass root organizations. Consensus was that this is not something Ordinance Review Committee is equipped to do. NHP member Carmen Junno proposed consideration of sole exclusion of eviction history.	Referred to 'Bucket #2' - 11/30/2020	<b><i>Voted not to recommend at this time with explanation that Northampton has no administrative complaint process and this field is fully-occupied at the state level - 3/1/2021</i></b>
Proposal to Expand Notification under §350-3.5	Expand notification of zoning map changes to include tenants of abutting properties as well as owners	Sent to Planning Board for review and comment - 12/7/2020 (Members decided to place in bucket #3 - 1/11/2021)	<b><i>Action deferred pending outcome of Planning Board discussion. <u>Committee voted to place on Exhibit C - Subjects Recommended for Study - 3/23/20221.</u></i></b>

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312-51 Towing of Vehicles Impeding Snow Removal Operations	No specific change proposed. Review Committee members wanted to explore the contribution of parking requirements to possible disproportionate impacts on renters.	Sent to Planning Board for review and comment on fact that parking standards increase parking pressure on city streets during snow emergencies with an unintended consequence of ordinance enforcement that creates a hardship for some lower-income tenants - 1/4/2020 (Members decided to place in bucket #3 - 1/11/2021)	<b>Action deferred pending outcome of Planning Board discussion. <u>Committee voted to place on Exhibit C - Subjects Recommended for Study - 3/23/20221.</u></b>
Commercial Buffer Zone Proposal §312-25 Prohibited Activities During Certain Hours of the Day	No specific text proposed	Tabled 12/15/2020 for further research by Councilors Nash and Jarrett. Councilors to research who has enforcement responsibility and clarify whether CB and Medical districts are considered 'residential' for purposes of enforcement. <del>Note: Building Inspector opinion obtained that §312-25 can be enforced in any zoning district where there are residences, so new ordinance is not needed - 3/15/2021</del>	<b>Action deferred at Councilor Nash's request pending further research. <del>Determination made that no new ordinance needed - 3/15/2021</del>. <u>Committee voted to place on Exhibit C - Subjects Recommended for Study - 3/23/20221.</u></b>

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Excerpt from Tay Porco email dated 11/18/2020: Northampton must create an ordinance banning the selling of public lands and buildings gifted to the city to private developers immediately. There is no excuse for a lack of affordable housing when buildings are gifted to the city for public use. Buildings gifted must be turned into affordable housing first and foremost before any other potential sales: the human right to shelter comes before capital investments. I am talking about the Mayor's decision to sell the Florence Grammar School, the South Street School, the old Water Department Building, and the current public ownership and potential sale of 593 Elm Street Building (in addition to many buildings gifted in the last 10-15	At 12/15/2020 meeting, members discussed that this is not an accurate statement but seems to reflect a misperception. In almost every sale he's been involved with in the eight years he's served as city solicitor, there has been some public benefit or community need the city is trying to fill, Attorney Seewald confirmed. A lot of these buildings are not set up for people to live in. They weren't residences when the city was using them and are not residences now. The cost of renovating the buildings to provide sanitary facilities, etc. to turn these into houses would be financially prohibitive. NOTE: Also, in all cases mentioned by Tay, properties were not 'gifted' to the city but were municipal buildings no longer in use.	List of Demands from unhoused organizers referred to 'Bucket #2' - 11/30/2020	<b><i>Voted to recommend not taking action on this at this time - 3/1/2021</i></b>

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Request to 'immediately legalize temporary structures and tents in public' and 'repeal all camping ordinances.'	At 12/15/2020 meeting, Councilor Nash reported that his review of ordinances did not find any ordinance prohibiting camping on city property. There <b>are</b> prohibitions against camping on city conservation property. As far as he knows, there is nothing on the books prohibiting camping in public space.	Referred to 'Bucket #2' - 11/30/2020	<b><i>Voted not to recommend at this time. Attorney Seewald said he could add a note that this was brought to the committee and while the committee did not see the need to recommend an ordinance legalizing temporary structures, the committee also would not support an ordinance that would impede those choosing to live outside - 3/1/2021</i></b>
Chapter 245 Peddling and Soliciting. Request to 'stop criminalizing and harassing unhoused people asking for money or panhandling on the street without a permit.'	At 12/15/2020 meeting, Attorney Seewald clarified that the city never enforces anti-panhandling laws. The Supreme Judicial Court today struck down the state anti-pan-handling statute as unconstitutional and in violation of the 1 <sup>st</sup> amendment. There is no, has been no and will be no enforcement of anti-panhandling, he stressed. It is 1 <sup>st</sup> amendment-protected and perfectly permissible and there's nothing they are going to do about it. There are a couple of areas they don't enforce – signs and panhandling.	Heard from City Solicitor that panhandling is protected by the 1st amendment and panhandling/soliciting ordinances are not enforced by the city - 12/15/2020. (List of Demands from unhoused organizers referred to 'Bucket #2' - 11/30/2020)	<b><i>Voted not to refer/recommend action with explanation - 3/1/2021</i></b>

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Request to 'enforce 'ban the box' law in Northampton workplaces	Porco stated that, while 'ban the box' is a Massachusetts state law, (prohibits employers from asking about criminal background as part of the job application process) local employers are not being held accountable for compliance. Urged councilors to put enforcement in place.	Referred to 'Bucket #2' - 11/30/2020	<b><i>Voted not to refer/recommend action with explanation - 3/1/2021</i></b>
Request to "create an ordinance that imposes penalties and incentivizes against the maintenance of private property vacancies."	Temporary freestanding ground signs advocating any candidacy or cause which is under consideration at a particular election or any other cause or issue (not to exceed one sign per candidate/cause per lot) shall be permitted, provided that such signs:	Referred to 'Bucket #2' - 11/30/2020	<b><i>Voted not to refer/recommend action - 3/1/2021</i></b>
Request to use existing "Fit" Test to Address New Housing Construction Justice Issues	Jackie Ballance proposed expanding the 'fit' test in design standards for single-family homes in Attachments 6, 7 and 8 of Ch. 350 to incorporate not only appearance but the three elements of the Sustainable Northampton Plan: Equity, Environment and Economy. A fit review for equity would look at a builder's track record for building homes that exceed 125% of the Zillow value of abutting properties and deny building permits for builders that regularly exceed this standard. A fit review for environment would protect trees and preserve local flora and fauna. A fit review for economy would consider whether the project supports local business, sources material locally and promotes the hiring of local tradespeople.	Verbally presented at 2/22/2021 meeting and forwarded by email entitled, "How can the existing 'fit' ordinance help to address new construction social justice issues?" Reviewed and constructively critized by OPS Director Feiden and Attorney Seewald at 2/22/2021 meeting. Under state law, communities have to have at least one substantial use as of right in every zoning district and historically,for residential districts that has been single-family homes. Northampton cannot legally limit the size of single-family homes. Also, planners don't get to apply site plan criteria to single-family homes unless they're giving 'extra stuff' such as density bonuses. Also, with regard to the equity fit test, zoning may only consider the land use, not the land user. Builders can't be treated differently. In a follow-up email dated 2/18/2021, Jackie herself said she'd had second thoughts about the difficulty in using this tool.	<b><u>The proposal for a 'fit' ordinance was effectively withdrawn by Jackie Ballance by email to Ordinance Review Committee dated February 18, 2021 and replaced with the idea of adopting Attorney Seewald's suggestion to cap the size of new single-family homes.</u></b>

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As proposed by Planning Board member Alan Verson, request to cap the size of new single-family homes built through the new Two-Family by Right zoning ordinance.	At a joint meeting of the Planning Board/ Legislative Matters Committee February 8, 2021, Attorney Verson proposed capping the size of new single-family homes built as part of the Two-Family By Right ordinance. Ms. Ballance presented this for formal consideration by the Ordinance Review Committee.	Discussed in tandem with 'fit' proposal at 2/22/2021 Ordinance Review Committee meeting with input from OPS Director Feiden and Attorney Seewald.	<u>Attorney Seewald advised committee that capping the size of single-family homes is not permissible under state law.</u>
<u>Chapter 9 Charter Review Committee</u>	<u>Study increasing the frequency of charter review under Ch. 9 of the ordinances</u>	<u>Member Paik noted that, as part of ordinance review, committee members discovered that a lot of things are out of the City Council's control because they lie in the executive. The mayor has broad powers to be able to create departments, set policy, hire staff, etc. The charter review process allows for review of the form of government and should happen more frequently than every 10 years.</u>	<u>Committee voted to recommend study-3/23/2021.</u>